

## **Appendix 5a**

## HAWAI'I CIVIL JUSTICE IMPROVEMENTS TASK FORCE SURVEY

Chief Justice Mark E. Recktenwald established the Civil Justice Improvements Task Force to develop recommendations on ways to reduce costs and delay and streamline the litigation process in Hawaii's Circuit Courts. The purpose of this survey is to obtain input from members of the Hawai'i State Bar Association to assist the Task Force in formulating its recommendations. Your cooperation in completing the survey is greatly appreciated. The Task Force plans to distribute the survey through various means, so please submit only one response to the survey and disregard any duplicate survey requests.

You may email any additional thoughts, comments, or suggestions regarding civil justice improvements to the Task Force at [CJI.Jud@courts.hawaii.gov](mailto:CJI.Jud@courts.hawaii.gov).

## HAWAI'I CIVIL JUSTICE IMPROVEMENS TASK FORCE SURVEY

Are you an attorney or judge with past or present CIVIL LITIGATION experience in the Circuit Courts of Hawai'i? For this survey, civil litigation does not include domestic relations or family law.

- Yes
- No

*If you answered "Yes," please proceed to Question 1. If you answered "No," you may stop here.*

### I. ATTORNEY BACKGROUND

1. Number of years of experience in civil litigation, including years serving as a judge: \_\_\_\_\_.

2. Which of the following best describes your experience in civil litigation:

- My current practice involves civil litigation.
- My current practice does not involve civil litigation, but I have past experience in civil litigation.

3. Please identify the judicial circuit in which you have primarily conducted your civil litigation practice.

- First Circuit
- Second Circuit
- Third Circuit
- Fifth Circuit

4. Estimated number of Hawai'i Circuit Court civil cases in which you have been an attorney of record (entered an appearance) or a judge within the last ten years:

- None
- 1 to 10
- 11 to 50
- 51 to 100
- Over 100

5. Estimated number of your Hawai'i Circuit Court civil cases that have gone to trial in the last ten years (Judges, please include cases over which you have presided at trial):

- None
- 1 to 5
- 6 to 10
- 11 to 20
- Over 20

6. Identify the types of civil cases with which you have the most experience in Hawai'i Circuit Court. Select up to three areas but do not include areas of minimal involvement:

- |   |   |
|---|---|
| <input type="checkbox"/> Contract               | <input type="checkbox"/> Condemnation                               |
| <input type="checkbox"/> Motor Vehicle Tort     | <input type="checkbox"/> Environment                                |
| <input type="checkbox"/> Assault and Battery    | <input type="checkbox"/> Foreclosure -- Mortgage /Agreement of Sale |
| <input type="checkbox"/> Construction Defect    | <input type="checkbox"/> Agency Appeal                              |
| <input type="checkbox"/> Medical Malpractice    | <input type="checkbox"/> Declaratory Judgment                       |
| <input type="checkbox"/> Legal Malpractice      | <input type="checkbox"/> Other, please specify _____                |
| <input type="checkbox"/> Product Liability      | <input type="checkbox"/> Other, please specify _____                |
| <input type="checkbox"/> Other Non-Vehicle Tort |   |

7. Which of the following best describes your civil litigation role over the course of your career? If applicable, you may check "neutral decision maker" in addition to any other box.

- Represent plaintiffs in all or nearly all cases
- Represent defendants in all or nearly all cases
- Represent plaintiffs and defendants, but plaintiffs more frequently
- Represent plaintiffs and defendants, but defendants more frequently
- Represent plaintiffs and defendants equally
- Neutral decision-maker

8. Your current position is best described as:

- Law firm lawyer or solo practitioner
- In-house counsel
- Government lawyer
- Judge
- Retired or inactive lawyer, last year of practice: \_\_\_\_\_
- Other, please specify: \_\_\_\_\_

*If your answer to Question 8 is "Law firm or solo practitioner," please answer Questions 9 and 10. Otherwise, please skip to Question 11.*

9. Current number of full- and part-time attorneys who work in your firm.

- 1 to 5
- 6 to 10
- 11 to 20
- 21 to 50
- Over 50

10. As a general matter, your firm will not file or defend a case unless the amount in controversy exceeds:

\$ \_\_\_\_\_

- Firm will not refuse a case based on the amount in controversy.
- Don't know.

11. Do you have civil litigation experience in federal court in the District of Hawai'i?

- Yes
- No

*If your answer to Question 11 was "Yes," please answer Questions 12 and 13. Otherwise, please skip to Question 14.*

12. How would you describe the frequency of your appearance in federal court in the District of Hawai'i?

- Rarely appear
- Occasionally appear
- Frequently appear

13. Between the Hawai'i Circuit Courts and the U.S. District Court for the District of Hawai'i:

- I prefer litigating in Hawai'i Circuit Courts.

Reason: \_\_\_\_\_  
\_\_\_\_\_

- I prefer litigating in U.S. District Court for the District of Hawai'i

Reason: \_\_\_\_\_  
\_\_\_\_\_

- No preference:

Reason: \_\_\_\_\_  
\_\_\_\_\_

II. CIVIL LITIGATION GENERALLY

14. Please indicate your level of agreement with each statement as it relates specifically to Hawai‘i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. The civil justice system provides for the just, speedy, and inexpensive determination of civil actions.					
b. The civil justice system is reasonably efficient and fundamental changes to reduce costs and delay and streamline the litigation process are not necessary.					
c. Fundamental changes need to be made to the civil justice system to reduce costs and delay and to streamline the litigation process.					
d. The civil justice system takes too long.					
e. The civil justice system is too expensive.					
f. The civil justice system is too complex.					
g. Cases are resolved based on considerations unrelated to the merits of the parties’ claims or defenses.					
h. Opposing counsel are generally uncooperative.					

15. In your experience, how often are litigation costs proportional to the value of the case in Hawai‘i Circuit Courts?

- Almost never
- Occasionally
- About 50% of the time
- Often
- Almost always

16. The primary cause of delay in the litigation process in Hawai‘i Circuit Courts is:

- Lack of a trial setting conference at the outset of the case
- Delayed rulings on pending motions
- Court continuances of scheduled events
- Attorney requests for extensions of time and continuances
- The time spent on discovery
- Lack of attorney collaboration on discovery issues and proceedings
- Other, please specify \_\_\_\_\_

17. How often does the cost of litigation force cases to settle that should not settle based on the merits.

- Almost never
- Occasionally
- About 50% of the time
- Often
- Almost always

18. How often does the length of time it takes to get a case to trial force cases to settle that should not settle based on the merits.

- Almost never
- Occasionally
- About 50% of the time
- Often
- Almost always

19. How often is each of the following a significant factor in the decision to settle a case.

	Almost never	Occasionally	About 50% of the time	Often	Almost always
a. Expert witness costs					
b. Deposition costs					
c. Document production costs					
d. E-discovery costs					
e. Trial costs					
f. Legal research costs					
g. Motions practice costs					
h. Attorney fees					
i. Time it takes to get to trial					

20. Please indicate how often the following occur in your experience as it relates to Hawai'i Circuit Courts.

	Almost Never	Occasionally	About 50% of the time	Often	Almost Always
a. Litigants engage in misconduct and rule violations that serve to increase the costs of and/or delay litigation.					
b. Litigants request sanctions for such misconduct and rule violations.					
c. Courts impose sanctions for such misconduct and rule violations.					

III.A CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES.

21. For each statement, please indicate your level of agreement as it applies to Hawai‘i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. Discovery and judicial involvement should be tailored to the needs of a case, as not every case requires the same amount of discovery and judicial involvement.					
b. Efficiency and costs savings would be enhanced if cases were separated into different pathways based on criteria such as amount in controversy and complexity, with appropriate levels of discovery and judicial resources applied to each pathway.					
c. Judicial involvement should happen once the parties have answered the complaint.					
d. The Court Annexed Arbitration Program (CAAP) should be modified to increase the \$150,000 “probable jury award” ceiling for acceptance into the program.					
e. The CAAP should be modified to make participation in the program voluntary.					
f. The CAAP should be expanded to apply to cases besides tort cases.					
g. Specialized courts to handle specific types of civil cases or disputes should be created.					
h. The District Court’s \$40,000 jurisdictional limit should be increased so that more cases can be filed in District Court.					
i. The \$5,000 threshold for the right to a jury trial should be increased.					
j. Jury trials with a jury of less than twelve but not less than six jurors should be authorized.					



22. If you agree or strongly agree that the \$150,000 CAAP ceiling should be increased, to what amount should the ceiling be increased: \$ \_\_\_\_\_

23. If you agree or strongly agree that the CAAP should be expanded to cases besides torts, what other types of cases should be included in the CAAP: \_\_\_\_\_

24. If you agree or strongly agree that specialized courts should be created, what types of specialized courts would you recommend: \_\_\_\_\_

25. If you agree or strongly agree that the District Court's jurisdictional limit should be increased, to what amount should the limit be increased: \$ \_\_\_\_\_

26. If you agree or strongly agree that the threshold for the right to a jury trial should be increased, to what amount should the threshold be increased: \$ \_\_\_\_\_

27. Do you have any suggestions or recommendations on how case triage/tiering and other case differentiation measures can be used to reduce costs and delay and streamline the litigation process in Circuit Court? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III.B. CASE MANAGEMENT

28. Who primarily controls the pace of litigation in Circuit Court?

- The Court
- The Lawyers
- The Litigants
- Don't know

29. For each statement, please indicate your level of agreement as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. The court, rather than the lawyers or the parties, should exercise ultimate responsibility over the management of cases.					
b. Judges should take a more active role in imposing deadlines and managing the progress of a case.					
c. Hawai'i should adopt procedures to facilitate early judicial involvement in a case.					
d. Hawai'i should adopt procedures to facilitate the early establishment of the trial date and pretrial deadlines.					
e. Hawai'i should adopt procedures similar to the scheduling conference provisions of Rule 16 of the Federal Rules of Civil Procedure.					
f. Hawai'i should adopt procedures to facilitate the early identification and review of frivolous lawsuits.					

30. The following are statements related to trial dates. For each, please give your opinion as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. Trial dates should be set early in the case.					
b. Trial dates should be set after the parties answer the complaint.					
c. Trial dates should be set after discovery is completed.					
d. Trial dates should be continued or vacated only under rare circumstances.					
e. It is too easy for parties to obtain extensions of trial dates already set.					

31. The following are statements about judicial role in litigation. For each give your opinion as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. One judge should handle a case from start to finish.					
b. The judge who is going to try the case should handle all pre-trial matters.					
c. It is more important that pre-trial matters are handled promptly than whether the trial judge or another judicial officer handles the matter.					
d. Judges are involved early in case proceedings.					
e. Involvement by judges early in the case helps to narrow the issues.					
f. Involvement by judges early in the case helps to narrow discovery to the information necessary for case resolution.					

32. Do you have any suggestions or recommendations on how case management practices can be used to reduce costs and delay and streamline the litigation process in Circuit Court? \_\_\_\_\_

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III.C DISCOVERY

33. For each statement, please indicate your level of agreement as it applies to Hawai‘i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. Hawai‘i should incorporate considerations of proportionality in defining the scope of discovery.					
b. Hawai‘i should adopt mandatory initial disclosure requirements, such as the ones imposed by the federal rules, to require disclosure of certain matters without the need for a discovery request.					
c. Hawai‘i should impose a mandatory requirement, such as the one imposed by the federal rules, to require the parties to meet and confer after a complaint has been served to discuss discovery and obtain agreement to a discovery plan.					
d. Judges are available to resolve discovery disputes on a timely basis.					
e. Judges should be more willing and available to resolve discovery disputes on an informal (non-motion) and expedited basis, such as through discovery/status conferences or letter briefing.					
f. The First Circuit should consider designating a specialized judge to resolve discovery disputes as a means of reducing costs and delay.					
g. Judges enforce discovery rules by imposing sanctions for discovery violations when warranted.					

34. Judges offer and are available to resolve discovery disputes on an informal (non-motion) and expedited basis:

- Almost never
- Occasionally
- About 50% of the time
- Often
- Almost always

35. The following statements relate to rules concerning expert discovery. For each statement, please indicate your level of agreement as it applies to Hawai‘i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
a. Hawai‘i should adopt rules, similar to the federal rules, that impose specific deadlines for disclosure of expert witnesses and expert reports.					
b. Hawai‘i should adopt rules, similar to the federal rules, regarding what an expert’s report must contain.					
c. Hawai‘i should adopt rules, similar to the federal rules, regarding the extent to which communications between counsel and an expert are discoverable.					

36. If there are aspects of discovery that you could change in order to reduce costs and delay and streamline the litigation process, what would they be and why? \_\_\_\_\_

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III. D. EXPEDITED TRIALS AND OTHER INNOVATIONS

37. Should the Hawai‘i Circuit Courts adopt an expedited trial program or pilot project to provide for expedited jury or bench trials for certain types of cases?

- Yes
- No
- Don't know

38. If your answer to the preceding Question 37 was “Yes,” do you have any suggestions or recommendations regarding what types of cases should be included in the expedited trial program and what procedures should apply to trials within the program.

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39. Do you have any suggestions or recommendations on how the Hawai‘i Circuit Courts can use technology to make the litigation process more user friendly and transparent for pro se litigants and to help reduce costs and delay? \_\_\_\_\_

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IV. CONCLUSION

40. If you could change one rule or procedure in the Hawai‘i Circuit Courts to reduce costs and delay and secure a more streamlined court process for litigants, what would it be and why. \_\_\_\_\_

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41. Please include any recommendation, information, clarification, or comment you would like to add. \_\_\_\_\_

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## **Appendix 5b**

## Hawaii Civil Justice Improvement Task Force Survey

Chief Justice Mark E. Recktenwald established the Civil Justice Improvements Task Force to develop recommendations on ways to reduce costs and delay and streamline the litigation process in Hawaii's Circuit Courts. The purpose of this survey is to obtain input from members of the Hawai'i State Bar Association to assist the Task Force in formulating its recommendations. Your cooperation in completing the survey is greatly appreciated. The Task Force plans to distribute the survey through various means, so please submit only one response to the survey and disregard any duplicate survey requests.

The survey should take approximately 20 to 25 minutes to complete. Your responses to survey questions will be submitted once you click "Next" in the survey, but your responses may be revised at any time until you click "Done" at the end of the survey. Your progress in completing the survey will be saved, and you may exit the survey and then later return to the survey by clicking on the survey link.

You may email any additional thoughts, comments, or suggestions regarding civil justice improvements to the Task Force at [CJI.Jud@courts.hawaii.gov](mailto:CJI.Jud@courts.hawaii.gov).

## Hawaii Civil Justice Improvement Task Force Survey

### I. ATTORNEY BACKGROUND

\* Are you an attorney or judge with past or present CIVIL LITIGATION experience in the Circuit Courts of Hawai'i? For this survey, civil litigation does not include domestic relations or family law.

Yes

No

## Hawaii Civil Justice Improvement Task Force Survey

### I. ATTORNEY BACKGROUND

\* Number of years of experience in civil litigation, including years serving as a judge:



\* Which of the following best describes your experience in civil litigation?

- My current practice involves civil litigation.
- My current practice does not involve civil litigation, but I have past experience in civil litigation.

\* Please identify the judicial circuit in which you have primarily conducted your civil litigation practice.

- First Circuit
- Second Circuit
- Third Circuit
- Fifth Circuit

\* Estimated number of Hawai'i Circuit Court civil cases in which you have been an attorney of record (entered an appearance) or a judge within the last ten years:

- None
- 1 to 10
- 11 to 50
- 51 to 100
- Over 100

\* Estimated number of your Hawai'i Circuit Court civil cases that have gone to trial in the last ten years (Judges, please include cases over which you have presided at trial):

- None
- 1 to 5
- 6 to 10
- 11 to 20
- Over 20

\* Identify the types of civil cases with which you have the most experience in Hawai'i Circuit Court. Select up to three areas but do not include areas of minimal involvement:

- |   |   |
|---|---|
| <input type="checkbox"/> Contract               | <input type="checkbox"/> Other Non-Vehicle Tort                     |
| <input type="checkbox"/> Motor Vehicle Tort     | <input type="checkbox"/> Condemnation                               |
| <input type="checkbox"/> Assault and Battery    | <input type="checkbox"/> Environment                                |
| <input type="checkbox"/> Construction Defect    | <input type="checkbox"/> Foreclosure -- Mortgage /Agreement of Sale |
| <input type="checkbox"/> Medical Malpractice    | <input type="checkbox"/> Agency Appeal                              |
| <input type="checkbox"/> Legal Malpractice      | <input type="checkbox"/> Declaratory Judgment                       |
| <input type="checkbox"/> Product Liability      |   |
| <input type="checkbox"/> Other (please specify) |   |

\* Which of the following best describes your civil litigation role over the course of your career? If applicable, you may check "neutral decision maker" in addition to any other box.

- Represent plaintiffs in all or nearly all cases
- Represent defendants in all or nearly all cases
- Represent plaintiffs and defendants, but plaintiffs more frequently
- Represent plaintiffs and defendants, but defendants more frequently
- Represent plaintiffs and defendants equally
- Neutral decision-maker

## Hawaii Civil Justice Improvement Task Force Survey

### I. ATTORNEY BACKGROUND

\* Your current position is best described as:

- Law firm lawyer or solo practitioner
- In-house counsel
- Government lawyer
- Other (please specify)
- Judge
- Retired or inactive lawyer

## Hawaii Civil Justice Improvement Task Force Survey

### I. ATTORNEY BACKGROUND

Current number of full- and part-time attorneys who work in your firm.

- 1 to 5
- 6 to 10
- 11 to 20
- 21 to 50
- Over 50

Will your firm refuse to file or defend a case based on the amount in controversy?

- Yes
- No
- I don't know

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

As a general matter, your firm will not file or defend a case unless the amount in controversy exceeds (in \$):

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

What was your last year of practice?

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

\* Do you have civil litigation experience in federal court in the District of Hawai'i?

- Yes
- No

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

\* How would you describe the frequency of your appearance in federal court in the District of Hawai'i?

- Rarely appear
- Occasionally appear
- Frequently appear

\* Between the Hawai'i Circuit Courts and the U.S. District Court for the District of Hawai'i:

- I prefer litigating in Hawai'i Circuit Courts.
- I prefer litigating in U.S. District Court for the District of Hawai'i
- No preference

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

Why do you prefer litigating in Hawai'i Circuit Courts?

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

Why do you prefer litigating in U.S. District Court for the District of Hawai'i?

Hawaii Civil Justice Improvement Task Force Survey

I. ATTORNEY BACKGROUND

Why do you have no preference between litigating in the Hawai'i Circuit Courts and the U.S. District Court for the District of Hawai'i?

Hawaii Civil Justice Improvement Task Force Survey

## II. CIVIL LITIGATION GENERALLY

Please indicate your level of agreement with each statement as it relates specifically to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
The civil justice system provides for the just, speedy, and inexpensive determination of civil actions.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The civil justice system is reasonably efficient and fundamental changes to reduce costs and delay and streamline the litigation process are not necessary.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fundamental changes need to be made to the civil justice system to reduce costs and delay and to streamline the litigation process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The civil justice system takes too long.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The civil justice system is too expensive.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The civil justice system is too complex.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cases are resolved based on considerations unrelated to the merits of the parties' claims or defenses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Opposing counsel are generally uncooperative.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

In your experience, how often are litigation costs proportional to the value of the case in Hawai'i Circuit Courts?

- Almost never
  Often
- Occasionally
  Almost always
- About 50% of the time

The primary cause of delay in the litigation process in Hawai'i Circuit Courts is:

- Lack of a trial setting conference at the outset of the case
- Attorney requests for extensions of time and continuances
- Delayed rulings on pending motions
- The time spent on discovery
- Court continuances of scheduled events
- Lack of attorney collaboration on discovery issues and proceedings
- Other (please specify)

How often does the cost of litigation force cases to settle that should not settle based on the merits?

- Almost never
- Often
- Occasionally
- Almost always
- About 50% of the time

How often does the length of time it takes to get a case to trial force cases to settle that should not settle based on the merits?

- Almost never
- Often
- Occasionally
- Almost always
- About 50% of the time

How often is each of the following a significant factor in the decision to settle a case?

	Almost never	Occasionally	About 50% of the time	Often	Almost always
Expert witness costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Deposition costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Document production costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
E-discovery costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trial costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Legal research costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Motions practice costs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Attorney fees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Time it takes to get to trial	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please indicate how often the following occur in your experience as it relates to Hawai'i Circuit Courts.

	Almost Never	Occasionally	About 50% of the time	Often	Almost Always
Litigants engage in misconduct and rule violations that serve to increase the costs of and/or delay litigation.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Litigants request sanctions for such misconduct and rule violations.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Courts impose sanctions for such misconduct and rule violations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Hawaii Civil Justice Improvement Task Force Survey

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

For each statement, please indicate your level of agreement as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
Discovery and judicial involvement should be tailored to the needs of a case, as not every case requires the same amount of discovery and judicial involvement.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Efficiency and costs savings would be enhanced if cases were separated into different pathways based on criteria such as amount in controversy and complexity, with appropriate levels of discovery and judicial resources applied to each pathway.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judicial involvement should happen once the parties have answered the complaint.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Court Annexed Arbitration Program (CAAP) should be modified to make participation in the program voluntary.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Jury trials with a jury of less than twelve but not less than six jurors should be authorized.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Hawaii Civil Justice Improvement Task Force Survey

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

\* Please indicate your level of agreement with this statement as it applies to Hawai'i Circuit Courts:

The Court Annexed Arbitration Program (CAAP) should be modified to increase the \$150,000 "probable jury award" ceiling for acceptance into the program.

Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

To what dollar amount should the ceiling be increased?

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

\* Please indicate your level of agreement with this statement as it applies to Hawai'i Circuit Courts:

The CAAP should be expanded to apply to cases besides tort cases.

Strongly Disagree

Disagree

Agree

Strongly Agree

No Opinion

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

What other types of cases should be included in the CAAP?

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

\* Please indicate your level of agreement with this statement as it applies to Hawai'i Circuit Courts:

Specialized courts to handle specific types of civil cases or disputes should be created.

Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Hawaii Civil Justice Improvement Task Force Survey

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

What types of specialized courts would you recommend?

Hawaii Civil Justice Improvement Task Force Survey

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

\* Please indicate your level of agreement with this statement as it applies to Hawai'i Circuit Courts:

The District Court's \$40,000 jurisdictional limit should be increased so that more cases can be filed in District Court.

Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Hawaii Civil Justice Improvement Task Force Survey

III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

To what dollar amount should the jurisdictional limit be increased?

Hawaii Civil Justice Improvement Task Force Survey

### III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

\* Please indicate your level of agreement with this statement as it applies to Hawai'i Circuit Courts:

The \$5,000 threshold for the right to a jury trial should be increased.

Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

### Hawaii Civil Justice Improvement Task Force Survey

### III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

To what dollar amount should the jury trial threshold be increased?

### Hawaii Civil Justice Improvement Task Force Survey

### III. A. CASE TRIAGE/TIERING AND OTHER CASE DIFFERENTIATION MEASURES

Do you have any suggestions or recommendations on how case triage/tiering and other case differentiation measures can be used to reduce costs and delay and streamline the litigation process in Circuit Court?

### Hawaii Civil Justice Improvement Task Force Survey

### III. B. CASE MANAGEMENT

Who primarily controls the pace of litigation in Circuit Court?

- The Court
- The Lawyers
- The Litigants
- Don't know

For each statement, please indicate your level of agreement as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
The court, rather than the lawyers or the parties, should exercise ultimate responsibility over the management of cases.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges should take a more active role in imposing deadlines and managing the progress of a case.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt procedures to facilitate early judicial involvement in a case.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt procedures to facilitate the early establishment of the trial date and pretrial deadlines.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt procedures similar to the scheduling conference provisions of Rule 16 of the Federal Rules of Civil Procedure.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt procedures to facilitate the early identification and review of frivolous lawsuits.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The following are statements related to trial dates. For each, please give your opinion as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
Trial dates should be set early in the case.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trial dates should be set after the parties answer the complaint.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trial dates should be set after discovery is completed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trial dates should be continued or vacated only under rare circumstances.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is too easy for parties to obtain extensions of trial dates already set.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The following are statements about judicial role in litigation. For each, please give your opinion as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
One judge should handle a case from start to finish.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The judge who is going to try the case should handle all pre-trial matters.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is more important that pre-trial matters are handled promptly than whether the trial judge or another judicial officer handles the matter.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges are involved early in case proceedings.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Involvement by judges early in the case helps to narrow the issues.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Involvement by judges early in the case helps to narrow discovery to the information necessary for case resolution.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you have any suggestions or recommendations on how case management practices can be used to reduce costs and delay and streamline the litigation process in Circuit Court?

Hawaii Civil Justice Improvement Task Force Survey

III. C. DISCOVERY

For each statement, please indicate your level of agreement as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
Hawai'i should incorporate considerations of proportionality in defining the scope of discovery.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt mandatory initial disclosure requirements, such as the ones imposed by the federal rules, to require disclosure of certain matters without the need for a discovery request.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should impose a mandatory requirement, such as the one imposed by the federal rules, to require the parties to meet and confer after a complaint has been served to discuss discovery and obtain agreement to a discovery plan.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges are available to resolve discovery disputes on a timely basis.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Strongly Disagree      Disagree      Agree      Strongly Agree      No Opinion

Judges should be more willing and available to resolve discovery disputes on an informal (non-motion) and expedited basis, such as through discovery/status conferences or letter briefing.

                      

The First Circuit should consider designating a specialized judge to resolve discovery disputes as a means of reducing costs and delay.

                      

Judges enforce discovery rules by imposing sanctions for discovery violations when warranted.

                      

Judges offer and are available to resolve discovery disputes on an informal (non-motion) and expedited basis:

- Almost never
- Occasionally
- About 50% of the time
- Often
- Almost always

The following statements relate to rules concerning expert discovery. For each statement, please indicate your level of agreement as it applies to Hawai'i Circuit Courts.

	Strongly Disagree	Disagree	Agree	Strongly Agree	No Opinion
Hawai'i should adopt rules, similar to the federal rules, that impose specific deadlines for disclosure of expert witnesses and expert reports.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt rules, similar to the federal rules, regarding what an expert's report must contain.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hawai'i should adopt rules, similar to the federal rules, regarding the extent to which communications between counsel and an expert are discoverable.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If there are aspects of discovery that you could change in order to reduce costs and delay and streamline the litigation process, what would they be and why?

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### III. D. EXPEDITED TRIALS AND OTHER INNOVATIONS

Should the Hawai'i Circuit Courts adopt an expedited trial program or pilot project to provide for expedited jury or bench trials for certain types of cases?

- Yes
- No
- Don't know

## Hawaii Civil Justice Improvement Task Force Survey

### III. D. EXPEDITED TRIALS AND OTHER INNOVATIONS



Do you have any suggestions or recommendations regarding what types of cases should be included in the expedited trial program and what procedures should apply to trials within the program?

Hawaii Civil Justice Improvement Task Force Survey

III. D. EXPEDITED TRIALS AND OTHER INNOVATIONS

Do you have any suggestions or recommendations on how the Hawai'i Circuit Courts can use technology to make the litigation process more user friendly and transparent for pro se litigants and to help reduce costs and delay?

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IV. CONCLUSION

If you could change one rule or procedure in the Hawai'i Circuit Courts to reduce costs and delay and secure a more streamlined court process for litigants, what would it be and why?

Please include any recommendation, information, clarification, or comment you would like to add.